

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 CARMEN POWELL, ) Civil No. 07CV1836  
11 Plaintiffs, ) **ORDER DENYING MOTIONS TO**  
12 v. ) **DISMISS AS MOOT**  
13 CITY OF CHULA VISTA, et al., ) [Doc. Nos. 11, 20 and 23]  
14 Defendants. )

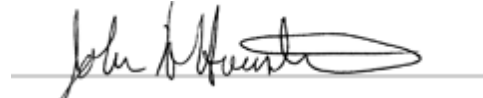
15 Plaintiff, a nonprisoner appearing *pro se*, filed a § 1983 action against eleven defendants  
16 on September 19, 2007. On January 9, 2008, Defendant Julie Smith filed a motion to dismiss.  
17 Doc. No. 11. On January 11, 2008, Defendants Rady Children's Hospital and Diana Chase  
18 filed a joint motion to dismiss. Doc. No. 20. Rady Children's Hospital and Ms. Chase also  
19 filed a notice of joinder as to Ms. Smith's motion to dismiss. Doc. No. 21. On January 23,  
20 2008, Defendant Morteza Mirkarimi filed his own motion to dismiss. Doc. No. 23. All three  
21 motions to dismiss came on for hearing on April 28, 2008.

22 At the hearing, this Court dismissed Defendants Children's Hospital, Diana Chase and  
23 Dr. Morteza Mirkarimi without prejudice. This Court also dismissed with prejudice two of  
24 Plaintiff's three causes of action – violations of 18 U.S.C. § 242, Deprivations of Rights Under  
25 Color of State Law, and 18 U.S.C. § 241, Conspiracy Against Rights. Because Plaintiff  
26 indicated that she was in the process of drafting an amended complaint, the Court directed  
27 Plaintiff to file her amended complaint by May 20, 2008.

28 On May 22, 2008, Plaintiff lodged with the Court a first amended complaint. The Court

1 directed that the document be filed *nunc pro tunc*. See Doc. Nos. 40 and 41. Because the first  
2 amended complaint is now the operative complaint in this matter, Defendants' motions to  
3 dismiss the original complaint are hereby **DENIED as moot**. The Court notes that because  
4 Defendants Children's Hospital, Diana Chase and Dr. Morteza Mirkarimi were not named in  
5 the amended complaint, those Defendants remain **TERMINATED** from this matter.

6  
7 Dated: June 17, 2008

8  
9   
10 JOHN A. HOUSTON  
11 United States District Judge  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28